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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CR No. 03-07-70347 BZ
)	
Plaintiff,)	STIPULATION AND [PROPOSED] ORDER
)	CONTINUING THE PRELIMINARY
v.)	HEARING AND EXCLUDING TIME
)	
GERALDO RODRIGUES,)	
)	
Defendant.)	
_____)	

____ This matter is set for a Preliminary Hearing on March 7, 2008. The parties now stipulate and request that the Court enter an Order that the Preliminary Hearing be removed from the March 7, 2008 calendar and be continued until March 28, 2008 and that time should be excluded from the Speedy Trial Act calculations from March 7, 2008 through March 28, 2008 for effective preparation of counsel. The parties have been and continue to discuss pre-trial resolution of this matter and require additional time for the parties to engage in meaningful discussions. Counsel for the government was not available for such discussions for most of the past month due to the fact that she suffered a knee injury on February 2, 2008; underwent surgery on February 20,

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2008; and returned to the office on March 3, 2008. Counsel for the government was out of the office on sick leave for most of this time between February 2, 2008 and March 3, 2008. Further, counsel for the defendant does not believe that it is within his client's best interest to hold a preliminary hearing within 20 days, pursuant to Fed. R. Crim. P. 5.1(c),(d). The parties represent that granting this continuance is necessary for effective preparation of counsel to permit counsel time to discuss pre-indictment resolution, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv).

IT IS SO STIPULATED.

JOSEPH P. RUSSONIELLO
United States Attorney

DATED: March 4, 2008

/s/
DENISE MARIE BARTON
Assistant United States Attorney

DATED: March 4, 2008

/s/
RONALD C. TYLER
Attorney for GERALDO RODRIGUES

IT IS SO ORDERED.

For the reasons stated above, the Preliminary Hearing shall be removed from the March 4, 2008 calendar and be continued until March 28, 2008. The Court further finds that the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial and that time should be excluded from the Speedy Trial Act calculations from March 7, 2008 through March 28, 2008 for effective preparation of counsel. See 18 U.S.C. §3161(h)(8)(A). The failure to grant the requested continuance would deny the defendant

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1 effective preparation of counsel, taking into account the exercise of due diligence, and would
2 result in a miscarriage of justice. See 18 U.S.C. §3161(h)(8)(B)(iv).

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5 DATED: _____

6 Honorable James A. Larson
7 United States Magistrate Judge
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